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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HERBERT CEVALLOS, JAVIER
CASTANEDA, CAROLINA ZAVALA,
individually and on behalf of all others
similarly-situated

No. C-05-1671-JF

**STIPULATION AND [PROPOSED] ORDER RE:
JUNE 30, 2006 STATUS CONFERENCE**

Plaintiffs,

VS.

SODEXHO, INC. and DOES 1 through 100,

Defendants.

**STIPULATION AND ORDER RE: STATUS CONFERENCE
U.S.D.C., N.D. Cal., No. C-05-1671-JF**

STIPULATION

Plaintiffs Herbert Cevallos, et al., and defendant Sodexho, Inc., acting through their respective counsel of record, hereby stipulate as follows:

1. This action, *Cevallos, et al. v. Sodexho, Inc.*, U.S.D.C., N.D. Cal., No. C-05-1671-JF (“*Cevallos*”), and a related action, *Herrera v. Sodexho, Inc.*, U.S.D.C., N.D. Cal., No. C-05-1247-JF (“*Herrera*”), both are currently pending before this Court. A status conference in both actions is scheduled for Friday, June 30, 2006.

2. On December 15, 2005, the parties in *Herrera* and *Cevallos* participated in a private mediation before Antonio C. Piazza of Gregorio, Haldeman, Piazza, Rotman & Frank, which produced a settlement of both actions.

3. Because both actions are putative class actions, the settlement is subject to preliminary and final judicial approval before it may become effective.

4. As part of the settlement, and to avoid any issue of whether this Court has jurisdiction over the actions to approve a settlement (due to the question whether plaintiffs' claims are preempted by the Employee Retirement Income Security Act of 1974), the parties agreed to file a new action in Alameda County Superior Court (the "Superior Court") for the sole purpose of obtaining preliminary and final judicial approval of the settlement. The parties further agreed that should final judicial approval of the settlement be given, then the parties would stipulate to dismissal of *Herrera* and *Cevallos*. The parties further agreed that should the settlement not be approved, then the Superior Court action would be dismissed and the parties would request the Court to lift the stay in *Herrera* and *Cevallos*.

5. On May 9, 2006, plaintiffs filed the new action in the Superior Court, entitled *Cevallos, et al. v. Sodexho, Inc.*, No. RG06268867.

6. On June 6, 2006, the Superior Court granted preliminary approval of the settlement. A true and correct copy of the Superior Court's preliminary approval order is attached to this stipulation. The final approval hearing on the settlement will be held on October 19, 2006.

7. The parties therefore believe there is good cause for, and on that basis request, a continuance of the June 30, 2006, Status Conference until January 2007.

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8. The parties anticipate that the settlement will receive final judicial approval in October 2006, and become final 60 days thereafter. If the settlement becomes final, then the parties will file a stipulation of dismissal of this action and the *Herrera* action pursuant to the terms of the settlement agreement and the January 2007 status conference will not be necessary.

9. Nothing in this stipulation is intended to constitute a waiver by either side of its respective position on whether the Court has jurisdiction over *Herrera* or *Cevallos*.

I, Jerry Budin, attest, pursuant to General Order No. 45, Rule X, that Jeffrey Wohl concurred in the filing of this document.

Dated: June 13, 2006.

JERRY BUDIN
LAW OFFICE OF JERRY BUDIN

By: /s/ Jerry Budin

Jerry Budin
Attorneys for Plaintiffs

Dated: June 13, 2006.

JEFFREY D. WOHL
STEPHEN H. HARRIS
PAUL, HASTINGS, JANOFSKY & WALKER LLP

By: /s/ Jeffrey D. Wohl

Jeffrey D. Wohl
Attorneys for Defendant Sodexho, Inc.

ORDER

Based on the parties' stipulation, and good cause appearing therefor,

IT IS ORDERED that the June 30, 2006, status conference be and hereby is VACATED. Unless this action is dismissed beforehand, in which the status conference will be automatically vacated, the parties are directed to report to the Court on January 12 2007, to report on the status of the approval process.

Dated: June 13, 2006.

Jeremy Fogel
United States District Judge